

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) FUSN1-01301US1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 10/003,027	Filed 2001-11-02
First Named Inventor Bharat Mediratta		Art Unit 2131	
Examiner Zia, Syed			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/95) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>54,768</u>		/David E. Cromer/ _____ Signature David E. Cromer _____ Typed or printed name 415-369-9660 _____ Telephone number 2008-04-30 _____ Date	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> *Total of _____ forms are submitted.			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application)	<u>PATENT APPLICATION</u>
)	
Inventors: Mediratta, et al.)	
)	
Application No.: 10/003,027)	Art Unit: 2131
)	
Filed: November 2, 2001)	Examiner: Zia, Syed
)	
Title: UPDATING SECURITY SCHEMES FOR)	Customer No. 28554
REMOTE CLIENT ACCESS)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants respectfully request consideration of the following remarks and arguments in connection with the Pre-Appeal Brief Request for Review submitted herewith.

REMARKS

Prior to filing an appeal brief, Applicants respectfully request that a panel of examiners formally review the legal and factual basis of the rejections in their application in accordance with the Pre-Appeal Brief Conference Pilot Program announced in the *Official Gazette*, 12 July 2005. This request is being filed simultaneously with a Notice of Appeal.

Applicants assert that the rejections of record are clearly not proper and are without basis. Legal and factual deficiencies exist in the rejections, as set forth hereinafter.

I. Summary of Rejections

Claims 1-57 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 5,689,566 ("*Nguyen*").

II. Claims 1-17: No Prima Facie Rejection-Limitations not Considered/Limitations not Met

Applicants respectfully submit that the Examiner has failed to establish a prima facie case of anticipation under § 102(e) by not considering each limitation of claims 1-17, thereby failing to show the disclosure of each limitation in the prior art as required under § 102. Applicants further submit that the limitations discussed below are not met by the prior art.

Independent claim 1 was amended in Applicants' Response A to more particularly recite that the step of "determining" was performed "automatically," "after completing said first log-in attempt" and "before a next log-in attempt." See Applicant's Response A to Office Action Under 37 CFR § 1.111, November 29, 2006; see also, Applicant's Response B to Notice of Non-Compliant Amendment under 37 C.F.R. § 1.121, August 20, 2007 (correcting a claim 1 underlining error in Applicant's Response A). In responding to Applicants' amendment, the Examiner characterizes this limitation as reciting "automatically determining that said current security scheme is to be replace *at any point during logon procedure*." Final Office Action, October 30, 2007, page 2 (emphasis added). This is clearly incorrect and without basis. The amended limitation plainly recites "automatically determining that said current security scheme is to be replaced by a desired security scheme *after completing said first log-in attempt*, wherein said determining is performed *before a next log-in attempt for said client*." (Emphasis added).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131, citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Because claim 1 was treated as claiming "automatically determining...at any point during logon procedure," each claim limitation was not considered. Thus, no prima facie case of anticipation under § 102 has been made. Applicants note that the rejection of claim 1 set forth on pages 4-5 of the office action includes the full claim language of claim 1 in a block quote, followed by a single citation to Nguyen at "Fig.1-2, col. 3 line 33 to col. 4 line 40." Final Office Action, pages 4-5. Nevertheless, no explanation is provided as to how the language "after completing said first log-in attempt" and "before a next log-in attempt" should be construed against its plain meaning as contended in the response to Applicants' arguments. Id. at page 2.

Applicants further assert that the limitation “automatically determining...” is not met by Nguyen. Nguyen makes no determination “automatically” as recited in claim 1. The Examiner contends that Nguyen discloses an automatic determination, summarizing the teachings therein as “thus allows user to select security level.” See Office Action, October 30, 2007, page 3. Applicants respectfully submit that user selection of a security level cannot reasonably be interpreted to disclose “*automatically determining*” as recited in claim 1 (emphasis added). Indeed, no explanation or reasoning for such an interpretation is provided. Accordingly, this claim limitation is clearly not met by the prior art.

A more detailed analysis of the patentability of claim 1 including the aforementioned limitations can be found in Applicants’ Response A to Office Action, pages 18-20. Applicants first detail that Nguyen actually makes no determination at all that a “current security scheme is to be replaced by a desired security scheme,” as recited in claim 1. Applicants then detail that even if Nguyen is construed to make such a determination (a point which Applicants do not concede), there is no disclosure that the determination is made “after completing said first log-in attempt” and “before a next log-in attempt,” or that it is made “automatically.”

For at least the aforementioned reasons, Applicants assert that a prima facie case of anticipation of claim 1 by the prior art under § 102 has not been made. Moreover, Applicants submit that the aforementioned limitations are not met by the prior art. There being clear factual and legal deficiencies in the rejection of claim 1, Applicants request reconsideration and allowance of claim 1 under § 102. Claims 2-17 each ultimately depend from claim 1. Applicants request reconsideration and allowance of these claims for the same reasons.

II. Claims 18-30: Clear Error-Limitations not Met

Applicants respectfully submit that the rejection of claim 18 is not proper and is without basis, there being clear legal and factual deficiencies in the rejection.

Claim 18 recites a method “for providing a client with access to a primary system through an intermediate system,” that includes “creating a log-in record at said intermediate system,” “authenticating access of said client to said intermediate system, based on data from said log-in data from said log-in record,” and “obtaining authentication data to send to said primary system” that includes “data from a decrypted version of said first encrypted value at said intermediate system.” These claim limitations are not met by the cited art.

The concept of authenticating a user at an intermediate system and obtaining authentication data to send to a primary system is not within the disclosure of Nguyen. As such, Nguyen does not disclose "creating a log-in record at said intermediate system," and "authenticating access of said client to said intermediate system, based on data from said log-in data from said log-in record," as recited in claim 18 (emphasis added). As detailed in Applicants' Response A, Nguyen describes a client-server interaction, with those portions cited by the Examiner clearly describing that "the first step takes place at the client computer," "the second step in the process takes place at the server," "the third step in the process takes place at the client computer," "the fourth step in the process takes place at the server computer," and "the fifth step in the process takes place at the client computer." *Id.* at col. 3, line 51-col. 5, line 26. There being no "intermediate server" involved, Nguyen cannot reasonably be interpreted to disclose the aforementioned features of claim 18.

Nguyen also fails to disclose "obtaining authentication data to send to said primary system, wherein said authentication data includes data from a decrypted version of said first encrypted value at said intermediate system," as recited in claim 18. Nguyen describes a feature of one implementation where "multiple servers can be connected together," but in doing so specifically states that "this feature requires the intermediate servers' administrators to manually logon the designated servers since the logon passwords are not stored on the intermediate servers." See Nguyen, col. 13, lines 53-60 (emphasis added). This language plainly illustrates that Nguyen does not disclose "obtaining authentication data to send to said primary system" from information "at said intermediate system," as recited in claim 18.

Applicants note that the first rejection of claim 18 was simply a block quote of the claim language with a single citation at the end to Nguyen at "Fig. 1-2, col. 3 line 33 to col. 4 line 40 and col. 5 line 33 to line 65). Office Action, June 29, 2006, page 3. Despite Applicants' clear explanation of the patentability of claim 18 over Nguyen, the subsequent Office Action provided no response to Applicants' arguments. See Final Office Action, October 30, 2007. The only discussion of claim 18 was another block quote of the claim language, again with a single citation at the end to Nguyen, "Fig. 1-2, col. 3 line 33 to col. 4 line 40 and col. 5 line 33 to line 65". Final Office Action, page 5.

Applicants respectfully submit that clear legal and factual deficiencies exist in the rejection of claim 18 in that there is no basis for the contention that Nguyen discloses "creating a log-in record at said intermediate system," "authenticating access of said client to said intermediate system," or "obtaining

authentication data to send to a primary system,” as recited in claim 18. Because these limitations are clearly not met by the cited art, Applicants respectfully request reconsideration and allowance of claim 18.

III. Claims 31-40 and 49-57

Claim 31 recites a “processor readable storage medium” having code for programming a processor to perform a method including the limitations of claim 1. Claim 49 recites an apparatus comprising a “processor readable storage medium storing code for programming” a processor to perform a method including the limitations of claim 1. For the same reasons as set forth above, Applicants submit that a prima facie case of anticipation of claims 31 and 49 by the prior art under § 102 has not been made. There being clear deficiencies existing with respect to the rejection, Applicants respectfully request reconsideration and allowance of claims 31 and 49 under § 102. Claims 32-40 and 50-57 each ultimately depend from claim 31 and 49, respectively. Applicants respectfully request reconsideration and allowance of these claims for at least the same reason.

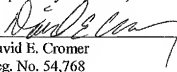
IV. Claims 41-48

Claim 41 recites a “processor readable storage medium” having code for programming a processor to perform a method including the limitations of claim 18. For the same reasons set forth for claim 18, Applicants submit that a prima facie case of anticipation of claim 41 by the prior art under § 102 has not been made. There being clear deficiencies existing with respect to the rejection, Applicants respectfully request reconsideration and allowance of claim 41 under § 102.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Date: April 30, 2007

Respectfully submitted,

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